·REMARKS

Reconsideration of this application is requested. By this amendment, claims 1, 5-7 and 9-17 are pending in the application. Claims 2-4, 8 and 18 have been canceled without prejudice. Claims 5, 10, 16-17 have been amended for formal reasons. Independent claims 1 and 11 have been amended to recite features and limitations not disclosed or suggested in the cited references of record.

1.   Claims 16-17 are rejected under 35 USC 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

. 2.   Claims 1, 2, 5-7, 9, 10 and 18 are rejected under 35 USC 102(e) as being anticipated by Hayes et al (U.S. Patent 6,223,348).

3.   Claims 3, 4, 8, and 11-17 are rejected under 35 USC 103(a) as being unpatentable over Hayes et al (U.S. Patent 6,223,348).

In response to Item 1 above, claims 16 and 17 have been amended to correct problems with antecedent basis associated with the terms "a first signal" and "a second signal". Claims 5 and 10 were also amended for formal reasons, with claim 5 having been amended to correct for antecedent basis, while claim 10 was amended to recite that the "microcontroller" includes "means for accepting or rejecting the computer code". Accordingly, claims 5, 10, 16 and 17 having been amended, applicant submits that all claims presently appearing in the application meet the requirements of 35 USC 112; reconsideration and removal of this rejection is requested.

In response to Items 2 and 3 above, Applicant has amended independent claims 1 and 11 to recite features and limitations that are neither taught nor suggested by the Hayes et al reference. More particularly, claim 1 has been amended to recite

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> An apparatus for loading computer code from a memory type integrated circuit card preloaded with computer code, said apparatus comprising:
>
> a card interface capable of distinguishing between a conventional integrated circuit card and said memory card, <u>said card interface having a low speed data port and a high speed data port</u>;
>
> a memory for storing computer code for execution by the apparatus; and
>
> <u>a microcontroller</u> coupled to the card interface and to the memory <u>for, if said card is a memory card, reading said computer code from said memory card by way of said high speed data port to said memory</u>, for thereby updating the computer code stored in said memory so as to effect a change of the functional operation of the apparatus. (emphasis added).

The Hayes et al reference fails to disclose or suggest each of the features and limitations as recited in present apparatus claim 1 and analogously, in amended method claim 11. More particularly, nowhere is there any teaching or suggestion in Hayes to configure an apparatus <u>as claimed</u> that utilizes both a <u>low speed data port</u> and a <u>high speed data port</u>, nor to determine whether an integrated circuit card is a <u>memory card</u> or a <u>conventional integrated circuit card</u>; and, if the card is a memory card, to transfer the computer code from the memory card, through the <u>high speed data port</u> associated with the smart card interface, into the computer's memory, so that the computer memory is thereby updated with the transferred code, to thereby effect a change of the functionality of the device.

The Examiner admits that the Hayes et al reference fails to disclose a memory card having a high speed data port. However, Examiner argues that it would have been obvious to incorporate a high speed data port into a card for high speed communication purposes. This obviousness argument is traversed as one of ordinary skill in the art, upon reading the Hayes reference, would <u>not</u> have been motivated to modify Hayes in the manner as suggested by the Examiner, to: 1) include <u>both</u> a low speed data port <u>and</u> a high speed data port, and 2) to also provide a controller operable
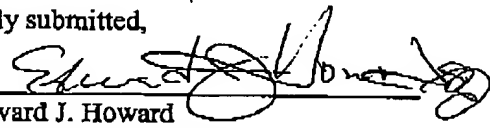
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to distinguish between card types <u>and</u> 3) based on the determination of card type, to direct the subsequent communication over one of the low speed or high speed data port or high speed data port according to the determination, <u>absent</u> the use of impermissible hindsight based on Applicant's own invention as described in the specification. While Hayes et al teaches updating of a remote control unit with code to perform certain functions, Hayes clearly falls short of providing any suggestion or motivation to modify Hayes to include additional structures, features, and operations, in order to arrive at applicant's invention as recited in present claims 1 and 11. For at least these reasons, independent claims 1 and 11 are patentably distinguishable over the Hayes et al reference and should be allowed. Reconsideration and removal of these 35 USC 102(e) and 35 USC 103(a) rejections are respectfully requested.

Please charge any additional fees to deposit account 50-2061.

Respectfully submitted,

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